

-SEALED SIDEBAR REMOVED-

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, )  
v. )  
Plaintiff, ) ) Criminal Action  
AGUSTIN FRANCISCO HUNEEUS, ) ) No. 1:19-cr-10117-IT-7  
Defendant. ) )

BEFORE THE HONORABLE INDIRA TALWANI  
UNITED STATES DISTRICT JUDGE

SENTENCING  
**SEALED SIDEBAR REMOVED**

October 4, 2019  
2:30 p.m.

John J. Moakley United States Courthouse  
Courtroom No. 9  
One Courthouse Way  
Boston, Massachusetts 02210

Linda Walsh, RPR, CRR  
Official Court Reporter  
John J. Moakley United States Courthouse  
One Courthouse Way, Room 5205  
Boston, Massachusetts 02210  
lwalshsteno@gmail.com

SEALED SIDEBAR REMOVED

## 1 APPEARANCES:

2 On Behalf of the Government:

3 UNITED STATES ATTORNEY'S OFFICE  
4 By: AUSA Justin D. O'Connell  
AUSA Kristen A. Kearney  
5 One Courthouse Way  
Boston, Massachusetts 02210  
6 617-748-3100  
justin.o'connell@usdoj.gov  
617-748-3204  
7 kristen.kearney@usdoj.gov

8 On Behalf of the Defendant:

9 HOLLAND & KNIGHT  
10 By: Jeremy M. Sternberg, Esq.  
John A. Canale, Esq.  
11 10 St. James Avenue, 11th Floor  
Boston, Massachusetts 02116  
12 617-854-1476  
jeremy.sternberg@hklaw.com  
617-619-9228  
13 john.canale@hklaw.com

14  
15  
16  
17 Proceedings reported and produced  
18 by computer-aided stenography  
19  
20  
21  
22  
23  
24  
25

SEALED SIDEBAR REMOVED

## 1 P R O C E E D I N G S

2 THE CLERK: The United States District Court is now in  
3 session, the Honorable Judge Indira Talwani presiding. This is  
4 Case Number 19-CR-10117, *United States versus Agustin Francisco*  
5 *Huneeus.*

6 Would counsel please identify themselves for the  
7 record.

8 MR. O'CONNELL: Good afternoon, Your Honor.

9 Justin O'Connell for the Government with Kristen  
10 Kearney.

11 MS. KEARNEY: Good afternoon.

12 THE COURT: Good afternoon.

13 MR. STERNBERG: Good afternoon, Your Honor.

14 Jeremy Sternberg and John Canale on behalf of Agustin  
15 Francisco Huneeus.

16 THE COURT: Good afternoon.

17 We are here for sentencing, and I have received and  
18 gone through a number of documents here. The presentence  
19 report prepared August 30th and revised September 27th.  
20 There's no Probation Office sentencing recommendation per the  
21 Government's objection.

22 The Government's memorandum regarding methodology for  
23 calculating gain or loss under the guidelines, and Probation's  
24 submission and response to the Court's order, and those were  
25 all addressed in my memorandum and order at 443 on the docket.

SEALED SIDEBAR REMOVED

1           I have the Government's sentencing memorandum as to  
2 all defendants, Docket 423, filed September 6th.

3           A sentencing memorandum as to Mr. Huneeus filed  
4 September 27th, and then sealed exhibits filed per Government's  
5 motion that was allowed on October 2nd.

6           And then I have the defendant's sentencing memorandum  
7 and Exhibits A, which are A sub 1 through 40, and B filed  
8 September 27th, and then I have victim impact statements from  
9 College Board dated August 7, ETS dated August 9th, and USC  
10 dated August 7th.

11           Is there any other material that's been submitted by  
12 the parties to the Court?

13           MR. O'CONNELL: Nothing from the Government, Your  
14 Honor.

15           MR. STERNBERG: No, Your Honor.

16           THE COURT: And to Probation, was any information  
17 withheld from the presentence report pursuant to Rule 32(d) (3)?

18           U.S. PROBATION: No, Your Honor.

19           THE COURT: Thank you.

20           Counsel, do you have any witnesses or victims present?

21           MR. O'CONNELL: Not for the Government.

22           THE COURT: Okay. And, defense counsel, have you had  
23 an opportunity to review all the materials submitted in  
24 connection with the sentencing?

25           MR. STERNBERG: We have, Your Honor, and we've had an

SEALED SIDEBAR REMOVED

1 opportunity to go over them with Mr. Huneeus.

2 THE COURT: Thank you. And, Mr. Huneeus, have you  
3 reviewed all the material that's been submitted in connection  
4 with sentencing?

5 THE DEFENDANT: I have.

6 THE COURT: And have you had an opportunity to discuss  
7 it with your counsel?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And to defense counsel, were you expecting  
10 any evidentiary hearing or witnesses?

11 MR. STERNBERG: We are not.

12 THE COURT: Okay. So that means I'm turning next to  
13 the objections to the contents of the Probation -- of the PSR.  
14 There are 11 objections by the Government, and I believe  
15 Objections 1 to 10 were resolved under my earlier memorandum.  
16 I understand the Government continues to object, but there's  
17 nothing further I need to do on those, correct?

18 MR. O'CONNELL: That's right, Your Honor. Just  
19 preserve our objection.

20 THE COURT: That's fine. And then Government  
21 Objection 11 I think concerned restitution. But at this point,  
22 am I correct that there's no further request for restitution?

23 MR. O'CONNELL: That's right, Your Honor.

24 THE COURT: Okay. And then with regard to the  
25 defendant's objections, I've read all of the objections and all

SEALSED SIDEBAR REMOVED

1 of the responses from the Probation Office, and I understand  
2 some of these things may be matters that you will argue in  
3 connection with the -- with your argument on sentencing, but  
4 are there any matters that you contend I should be correcting  
5 in the PSR?

6 MR. STERNBERG: No, Your Honor. We're satisfied with  
7 Probation's treatment of all of the objections.

8 THE COURT: Okay. Thank you.

9 MR. STERNBERG: There is one matter with respect to  
10 the PSR that has to do with Mr. Huneeus's daughter that we ask  
11 to be heard at sidebar on.

12 THE COURT: Certainly.

13 (At sidebar.)

14 \* \* \* \* \*

15 (SEALSED SIDEBAR REMOVED)

16 \* \* \* \* \*

17 (End of sidebar.)

18 THE COURT: I think with that we are -- move on to the  
19 offense level computation. The statute at issue, 18 U.S.C.  
20 Section 1349 under the guidelines, the base offense level here,  
21 based on the underlying conduct, was a level 7. I've rejected  
22 the Government's argument regarding using the amounts paid to  
23 change that level, and based on that, I am at an offense level  
24 of 7 for the offense and then after a two-level decrease for  
25 acceptance of responsibility, a total offense level of 5.

SEALED SIDEBAR REMOVED

1           I understand the Government objects to my not  
2 including the financial amount, but other than that objection,  
3 is there any, which is not -- which is -- the Government's  
4 objection which is preserved, is there any further objection?

5           MR. O'CONNELL: No further objection from the  
6 Government.

7           MR. STERNBERG: No, Your Honor.

8           THE COURT: So we're proceeding with a total offense  
9 level of 5. There are zero criminal history points here, which  
10 gets us to a criminal history category of I. So the sentencing  
11 options I have here, the statutory provision, custody not more  
12 than 20 years; the guideline provision, zero to six months.  
13 Supervised release, statutory, not more than three years;  
14 guidelines, one to three years. Probation, statutory  
15 provision, one year to five years; guideline, not more than  
16 three years. Statutory -- fines, statutory provision, not more  
17 than \$250,000; guideline provision, \$500 to \$9,500.  
18 Restitution is not at issue. Special assessment of \$100.

19           So with that, I will hear from the Government as to  
20 its recommendation.

21           MR. O'CONNELL: Yes, Your Honor. May I take the  
22 podium?

23           THE COURT: Absolutely.

24           MR. O'CONNELL: Thank you.

25           Good afternoon, Your Honor. For this defendant,

SEALED SIDEBAR REMOVED

1 Agustin Huneeus, a sentence of 15 months of imprisonment is  
2 sufficient but not greater than necessary to achieve the  
3 purposes of 3553(a). Three of the aggravating factors set  
4 forth in prior sentencing of his co-conspirators show this  
5 result is warranted.

6 First, he was a repeat player. Huneeus is the only  
7 parent before Your Honor to have engaged in both the exam  
8 cheating and the side door schemes.

9 Second, he was one of, if not the most active of the  
10 defendants in this information. He knew what he wanted. That  
11 was a fraudulent advantage for his daughter. He knew how to  
12 get it, and he pushed for that result.

13 THE COURT: Well, when you say he was the most active,  
14 he had conversations urging Mr. Singer to make things happen,  
15 but in the other sentencing, the Government has pointed to  
16 actions as -- actions independent of Mr. Singer. So for you to  
17 say that he's the most active seems different than the way you  
18 were considering that idea with the other defendants.

19 MR. O'CONNELL: I respectfully disagree with that,  
20 Your Honor. I think that while all of these conversations and  
21 the active behaviors that were taken by other defendants, like  
22 Mr. Sloane putting his son in the water pool in his kids'  
23 yard -- in the backyard, that was all at the direction and  
24 consultation of Rick Singer.

25 So in this instance it wasn't just conversations that

SEALED SIDEBAR REMOVED

1 Mr. Huneeus was having. He went forth and actually on recorded  
2 telephone calls said that he was going to and had implemented  
3 the scheme. He asked his daughter to write a fake e-mail to  
4 USC that would say that she was going to be an athlete when she  
5 joined and a capable one at that. That e-mail did happen.

6 THE COURT: But that was the same scheme that  
7 was -- that Mr. Singer was pushing and suggesting. I mean, he  
8 didn't come up with this idea on his own.

9 MR. O'CONNELL: No. The defendant did come with one  
10 very unique idea on his own. He called it his original idea,  
11 and that was to have his older daughter, a college student,  
12 take the ACT exam on behalf of his younger daughter.

13 THE COURT: Thought about and rejected it.

14 MR. O'CONNELL: He thought about it, and yes, Your  
15 Honor, it didn't go forward, but he offered it because he  
16 wanted to get more fraudulent scores. He already had obtained  
17 the SAT fraudulent score at that point in time. He wanted  
18 additional avenues to increase her likelihood of success in the  
19 application process down the road even more. He explored both  
20 that original idea -- he called it, in his own words, his  
21 original idea. So it's not true that this defendant didn't  
22 come up with his own ideas.

23 While you're right, Your Honor, it was all moving  
24 forward to try and get the scheme accomplished, which was the  
25 guaranteed spot at USC, he did have his own ideas, and he

SEALSED SIDEBAR REMOVED

1 implemented through a two-year period of time those ideas.  
2 Lying to high school counselors to get the tests moved to the  
3 site at Singer's corrupt facility. And then at the end of the  
4 scheme even agreed with Mr. Singer to lie to the IRS. We'll go  
5 through some of those details in this brief, but I don't think  
6 it's accurate to say he didn't have his own ideas or that he  
7 wasn't actively doing things, he was just sitting there  
8 listening to telephone conversations.

9 The third point, Your Honor, and probably the most  
10 troubling, is that Huneeus repeatedly used his daughter in the  
11 scheme. He did this for the course of two years, and we'll  
12 talk a little bit about how that happened in a bit. But before  
13 we get to these points, Your Honor, I would like to address a  
14 misconception in the defendant's memorandum. His brief claims  
15 that the defendant's crime did not harm anyone. Due to his  
16 arrest in March of 2019, his daughter did not take a spot from  
17 another deserving individual is what his memorandum says. That  
18 is wrong. Wrong because as Huneeus was told at the time he was  
19 committing the offense, his daughter was admitted to USC as a  
20 student athlete in November of 2018. At that very moment,  
21 months before his arrest, she took a spot that was dedicated  
22 for real athletes. At USC, as Your Honor is aware, athletic  
23 recruiting -- athletic recruits seeking admission appear before  
24 a single admissions subcommittee.

25 Donna Heinel, one of the USC employees that the

SEALSED SIDEBAR REMOVED

1 defendant agreed to bribe, acted as the liaison from athletics  
2 to that committee. She presented applicants, most real  
3 recruits, but if someone like the defendant was willing to pay  
4 a bribe, she would also include fake ones, too. That unwitting  
5 admissions committee voted on whether to admit students to USC.  
6 Athletics doesn't have an unlimited number of admission spots.  
7 In the academic year the defendant's daughter was admitted,  
8 that committee rejected several recruits, including those  
9 seeking admission in the sport exploited here, water polo. In  
10 fact, in one instance, Donna Heinel decided not to put forth a  
11 water polo recruit to that committee. By giving an admissions  
12 spot to the defendant's daughter, who was not a real recruit,  
13 she, by definition, replaced another student.

14 Admissions, even in athletics, is a zero-sum game.  
15 Real kids got hurt, USC was victimized, and that happened well  
16 before the date of his arrest.

17 Turning back to the aggravating factors, Your Honor.

18 THE COURT: I just want to stop you on that one. It  
19 seems that the point that you're fighting over, and I can  
20 anticipate the response from defense counsel, is to whether  
21 there was actually that spot and that spot taken and was it a  
22 conditional acceptance. It seems a little bit beside the  
23 point. I mean, isn't what I'm sentencing here for the  
24 conspiracy to commit this offense, and isn't the question I  
25 should be asking whether he intended to get that spot, whether

SEALSED SIDEBAR REMOVED

1 it was completed, whether it was -- I mean, the argument about  
2 yes, it was actually filled in November or it was actually  
3 filled in April really seems beside the point.

4 MR. O'CONNELL: I don't disagree with you on that  
5 point, Your Honor. The conspiracy happened when he intended  
6 and entered into that conspiracy and committed the overt acts  
7 which happened, you know, even before the time period I'm  
8 talking about.

9 But I am also just making the point that even though  
10 it is a conspiracy, there was real harm here and actual  
11 victims, which I think is a point that the defense -- and I'll  
12 allow them to make their own points up here, but they were  
13 trying to suggest otherwise, that someone didn't get harmed by  
14 his acts.

15 But to turn back to the aggravating factors, Huneeus  
16 was a repeat player. For two years he continually sought out  
17 Singer's illicit services. At the time he recognized on  
18 multiple occasions that his conduct was wrongful. He said that  
19 it was cheating, he said it made him feel guilty, but he never  
20 hesitated. Despite that, those feelings, he never slowed down.  
21 He continued to press for more. His involvement began with the  
22 cheating scheme on his daughter's SAT exam. This was the exam  
23 that Riddell took for his daughter in which he scored 1380.

24 THE COURT: So I have no facts in front of me to  
25 support that assertion that the exam was taken for the

SEALSED SIDEBAR REMOVED

1 daughter.

2 MR. O'CONNELL: I think --

3 THE COURT: I think the facts I have in front of me is  
4 that Riddell corrected the daughter's exam.

5 MR. O'CONNELL: Fair enough, Your Honor.

6 THE COURT: Thank you.

7 MR. O'CONNELL: I would agree with that, that Riddell  
8 corrected the exam and got a score for his daughter of 1380.  
9 That score is in the 96th percentile nationally. For Huneeus,  
10 that was not enough. He paid his \$50,000, but he also demanded  
11 an explanation as to why Bill McGlashan, a co-conspirator, who  
12 has been charged with participating in the same scheme, got a  
13 better result for his kid. Huneeus asked why his daughter's  
14 score hadn't been 1500, the equivalent of what McGlashan's son  
15 got. Singer told Huneeus that would have gotten them in  
16 trouble because they would have gotten caught. So what did  
17 Huneeus do? He asked how they could cheat again on different  
18 tests. He wanted to know how to get a fake score -- if a fake  
19 score on the ACT would improve his daughter's chances further.  
20 And he asked about the same for the SAT subject tests. He was  
21 told each additional test would cost another \$50,000, but he  
22 ultimately did not go through with them because Singer  
23 convinced him that the artificially inflated score that she  
24 already had was sufficient to get in through the side door at  
25 USC.

SEALSED SIDEBAR REMOVED

1                   He then explored the side door at USC that guaranteed  
2 admission, and asked in a lot of detail as to how that process  
3 would work. What he was told was that it would cost him  
4 another \$250,000 in bribes. The first \$50,000 would go to  
5 Donna Heinel to secure his daughter's admission as a recruited  
6 athlete. The second \$200,000 would be funneled through  
7 Singer's fake charity to the water polo coach, Jovan Vavic, for  
8 giving up spots on the roster.

9                   Singer would also need to create a fake profile so  
10 Huneeus's daughter could be represented to that subcommittee  
11 that we discussed. For Huneeus bribing two USC employees would  
12 be no problem. A fake profile was also not an issue. His  
13 concern at that time was that Singer guarantee that his money  
14 would be repaid to him or not due if the scheme didn't work.

15                   He was also one of the more active participants.  
16 Lying during the conspiracy came naturally to Mr. Huneeus. The  
17 lies started with his daughter's high school, and they  
18 continued to that IRS call that we discussed a little earlier  
19 when Mr. Singer proposed lying to the IRS, and the defendant  
20 responded, "Dude, what do you think, I'm a moron?" This  
21 defendant's only natural first response was to lie to the IRS.  
22 For him there was no other option.

23                   When the scheme wasn't performing as he desired, he  
24 demanded more, requiring an additional level of comfort that he  
25 was getting the support that more connected and even wealthier

SEALSED SIDEBAR REMOVED

1 co-conspirators were getting. Huneeus's concern was that the  
2 fraud work seamlessly. We talked about this point, but I'll  
3 just say it again briefly. He came up with his own ideas,  
4 including the use of his second daughter for taking the test  
5 for his younger daughter. That idea was representative of an  
6 extremely troubling aspect of the defendant's commission of the  
7 crime. And that is the use of his children.

8 He showed no concerns whatsoever about notifying his  
9 daughters that the crime -- his daughter that the crime was  
10 occurring. But also directing her on several occasions to  
11 advance that scheme. This wasn't a one-off e-mail. This  
12 wasn't just one photo shoot. He used his daughters in multiple  
13 acts over multiple years. He did so in the testing. The  
14 defendant in his brief claims that Singer was the one who  
15 informed her of that testing. That's beside the point.  
16 Huneeus chose to proceed with the testing scheme knowing that  
17 his daughter knew about it. Furthermore, the defendant didn't  
18 dispute that he involved his daughter in the side door scheme.  
19 And that's because he couldn't. He asked his daughter to write  
20 that fake e-mail to USC to be used for the subcommittee  
21 process. He also asked for months, six months for a water polo  
22 picture to be included in her fake profile.

23 But he also allowed Singer to explain the side door,  
24 and how do we know this? We have it on tape. The defendant,  
25 his daughter and Singer met in person, and his daughter asked,

SEALSED SIDEBAR REMOVED

1 "When will I know about USC, assuming we do this water polo  
2 thing?" Singer turned to Huneeus for guidance as to how to  
3 respond and whether to respond, and the defendant said he  
4 could. After providing that update as to what was going on  
5 with the state of affairs of the side door and that she would  
6 likely be admitted in November, the defendant, not Singer, the  
7 defendant jumped in and said "But we're not going to say this  
8 to anyone." He was the one who ordered his daughter to conceal  
9 the fraud. He told her to have a, quote, "keep-your-trap-shut  
10 mentality." For Huneeus, it wasn't just about participating in  
11 the fraud. It was about doing everything possible to maximize  
12 the fraud and the benefits to himself.

13 In several of the sentencing in this matter, there  
14 have been discussions about a moral line. Did the defendant  
15 when no one else was looking have a threshold that he or she  
16 would not cross. Huneeus during this crime displayed no such  
17 line. This is one of the reasons, amongst the others discussed  
18 in our brief and earlier today, that this defendant deserves  
19 the longest sentence of anyone of the 11 people charged in this  
20 information.

21 THE COURT: So I know the Government made  
22 recommendations different than the ones I have imposed. And I  
23 can fit in as viewing your assertion that this defendant is  
24 more culpable than some of the other defendants I've sentenced,  
25 but given the sentences that I've imposed, are you contending

SEALSED SIDEBAR REMOVED

1 that what he did is deemed four times more than his  
2 co-defendants versus slightly more than his co-defendants,  
3 recognizing that you disagree with my starting point?

4 MR. O'CONNELL: Yeah, it's a hard question to answer  
5 because of that last point, Your Honor. We do disagree with  
6 your starting point. But, yeah, that is the recommendation as  
7 we've set forth in our brief, and we stand behind it, that a  
8 15-month sentence would be appropriate here.

9 THE COURT: But you did not make an initial  
10 recommendation four times the next most culpable in your view  
11 or three times the most culpable?

12 MR. O'CONNELL: No, but in fairness, we didn't know  
13 what Your Honor was sentencing.

14 THE COURT: I understand that you don't agree with  
15 where I have been sentencing the defendants, but --

16 MR. O'CONNELL: Right.

17 THE COURT: -- from my point of view, it seems to me,  
18 you would understand that from my point of view I'm intending  
19 to be internally consistent here. So given my logic of  
20 proceeding in an internally consistent manner, explain to  
21 me -- is the Government's view this is slightly worse than what  
22 happened or is it your view this is so much worse, and if so  
23 much worse, then why were the numbers close together before?

24 MR. O'CONNELL: I wouldn't -- if I could, Your Honor,  
25 answer that in two parts.

SEALED SIDEBAR REMOVED

1                   The first part is, is this conduct greatly worse or  
2 somewhat worse? I think it is greatly worse. I mean, he  
3 committed two different acts. Your Honor has nobody else  
4 before her who did that. He didn't stop at the first one. He  
5 didn't have any reservations. If, you know, look at our  
6 briefing and the exhibits that we filed with you, you can hear  
7 that he had no reservations whatsoever throughout the process.

8                   Is it a different -- completely different conspiracy  
9 that is not like the others? Obviously that's not the case.  
10 We charged him in the same conspiracy. But his conduct during  
11 that conspiracy is unlike any other conduct that Your Honor has  
12 before her. He did this multiple times, explored doing it even  
13 more times, and it wasn't like some of the other defendants  
14 have expressed to you, a concern about not continuing on like  
15 Ms. Huffman did. This defendant abandoned it to do the next  
16 scheme. He wanted to go forward and said the USC side door is  
17 good, and I have a good enough score. He was talked into that.  
18 Notably all those conversations were before Mr. Singer was  
19 working with the Government. This wasn't -- this was naturally  
20 occurring conversations that they had at that time that we  
21 heard on the wire. It was not influenced at all by anybody  
22 other than the defendant's choices.

23                   He is different. He involved his kids. He -- and I  
24 grant you, Your Honor, that he didn't bring his second daughter  
25 in, but he did ask to bring her in.

SEALED SIDEBAR REMOVED

1                   THE COURT: Okay. But be careful. You're speaking to  
2 the public as well as to me so you're making accusations  
3 involving his kids. He did not involve more than one kid here.

4                   MR. O'CONNELL: Your Honor, I'm using what he said. I  
5 am not saying that he involved both kids. I think that is  
6 right, and I don't want to have anybody have a different  
7 impression. The only important thing for Your Honor to  
8 consider is what this defendant was doing. He didn't actually  
9 use her, but he offered to use her because they looked alike.  
10 That's his own words. That's not me involving his kid. That's  
11 him involving his kid.

12                  THE COURT: I'm just cautioning you to use language  
13 with care.

14                  MR. O'CONNELL: Understood, Your Honor.

15                  So to return, do we think this defendant is more  
16 culpable? The answer is yes. Do we think the Government  
17 thinks that the 15-month recommendation satisfies the 3553(a)  
18 factors? We think that is appropriate. And I think it is  
19 appropriate even within the context of what Your Honor's prior  
20 sentences have been because of the fact that, as Probation has  
21 articulated to you, that going above the guidelines range is  
22 appropriate in these instances because certain factors, like  
23 the way Your Honor decided the loss/gain issue, in your  
24 interpretation of that issue, that's not the loss and gain and  
25 the amount paid is not a factor for increasing the sentence.

SEALED SIDEBAR REMOVED

1       But because of that, in that interpretation, that means that's  
2       a factor that could be used to exceed the guidelines. And  
3       here, that's another point against Mr. Huneeus.

4                   Out of all of the people before you, he agreed to pay  
5       the second most. I get that's not going to increase his  
6       guideline sentence, but that is a factor and that's a reason  
7       why you should be going above for this defendant.

8                   Thank you, Your Honor.

9                   THE COURT: Thank you.

10                  Counsel?

11                  MR. STERNBERG: Thank you, Your Honor. May I argue  
12       from counsel table?

13                  THE COURT: Absolutely.

14                  MR. STERNBERG: The Government tries to reduce the  
15       essence of Agustin Huneeus to this crime and to a carefully  
16       edited series of sound bites extracted from taped conversations  
17       with Rick Singer. That's not the man that Mr. Huneeus was  
18       before he met Rick Singer, and it's not the man he is today.

19                  To be sure, Mr. Huneeus committed this crime, though  
20       he did not seek out Rick Singer to engage any fraud scheme. In  
21       fact, it's important to note that the beginning of the  
22       relationship with Rick Singer was for completely legitimate  
23       college counseling, essay editing, college list preparation,  
24       SAT tutoring. Over time absolutely the relationship crossed  
25       the line from legitimate to fraudulent, but that's actually one

SEALED SIDEBAR REMOVED

1 distinguishing feature. Some of the defendants in front of  
2 Your Honor, including one yesterday, started a relationship  
3 with Rick Singer for fraudulent reasons. This one did not.

4 After being charged, Mr. Huneeus immediately took  
5 responsibility, signed a plea agreement, pled guilty in this  
6 courtroom, and has been doing his level best at home, in his  
7 community, and in what's left of his professional life to move  
8 forward, to find a path forward.

9 Now, the Government's briefs and arguments make no  
10 real effort to address the guideline issues, the 3553(a)  
11 factors, Mr. Huneeus's life, his post-plea conduct. Instead  
12 they focused almost exclusively on this carefully curated  
13 series of sound bites from these recorded conversations. Now,  
14 despite asking for access to the full tapes in writing months  
15 ago, I only received them, as a result of Your Honor's  
16 discussion yesterday with Mr. Rosen in the courtroom, late last  
17 night. And even in the hours that I've had reviewing the full  
18 tapes in context, they are much more nuanced, much more -- much  
19 less dark than the Government portrays them. In fact, they  
20 revealed Mr. Huneeus wrestling over time with whether to go  
21 forward with this admission scheme. He asked repeatedly  
22 Mr. Singer "What happens if we don't do this? Where would my  
23 daughter -- what schools would be eligible for her?"

24 And this business about involving his other daughter  
25 for subject matter tests or ACT, none of that happened. Those

SEALED SIDEBAR REMOVED

1 are musings on a long phone call that was recorded with  
2 Mr. Singer, and to the extent that other defendants have gotten  
3 so-called credit for not involving another kid, not deciding to  
4 do the side door, he didn't do any of those things. Those were  
5 part of a discussion. They never happened. They have taken a  
6 surprisingly inordinate amount of time of the Government's  
7 argument to talk about things that never happened.

8 So to be sure, even though he wrestled with some of  
9 these issues on tape, yes, he ultimately failed and made a  
10 horrible decision and went forward with the crime with  
11 Mr. Singer, and he's pled guilty for it and is now here to be  
12 sentenced for it. But the narrative is not nearly as dark when  
13 one looks at all the tapes and sees all the tapes in total.

14 Now, the Government has urged the Court to view this  
15 crime through the lens of a matrix that they've created.  
16 Various factors where they score the same -- defendants who  
17 have pled guilty to the same crimes. How much did they pay,  
18 were they repeat players, did they involve their children, how  
19 active were they, and other factors that they can glean from  
20 these recordings.

21 I've explained in our brief that Mr. Huneeus actually  
22 fares better than many parents if you use that kind of matrix,  
23 but the matrix approach isn't appropriate for his case for a  
24 few reasons. First, the matrix approach that the Government  
25 seeks the Court to adopt or urges on the Court has a heads I

SEALSED SIDEBAR REMOVED

1 win, tails you lose component to it. And let's take the  
2 involvement of the children as an example of that. The  
3 Government urges that for some parents they should get a  
4 harsher sentence because they used deception to keep the scheme  
5 from their child. As to Mr. Huneeus and other parents, they  
6 urge a harsher sentence because he involved his child.

7 THE COURT: So I would agree with you that arguing  
8 every case to its maximum makes it sometimes hard for the  
9 Government to keep their idea of the matrix that they are using  
10 very reliable, but I don't disagree with the Government that it  
11 is of some moment for me to try -- I have 11 defendants in  
12 front of me. I have an obligation to try and not sentence  
13 defendants differently for the same offense, and so I do have  
14 to pull apart in some measure what the -- how the conduct  
15 stacks up one to another. So put aside their characteristics  
16 of it -- I agree with you, that they do have a heads we win,  
17 tails you lose aspect at times.

18 But putting aside the argumentative piece of it, just  
19 trying to break down what I have here, your client is the only  
20 defendant I have who engaged in both of the schemes. And the  
21 question about the involvement of the children plays out for me  
22 I think a little bit as follows, which is that to the extent  
23 that the child is aware of the illegality of the wrongful  
24 act -- there's a couple of different possibilities. Either the  
25 child doesn't understand this is wrongful, and that's kind of a

SEALED SIDEBAR REMOVED

1 hard thing to understand when it's cheating on tests. The side  
2 door thing may have been more complicated depending on how that  
3 was presented, but certainly -- and false statements in an  
4 application or any cheating on a test, I think that's being  
5 conveyed to the child, but frankly, it's also putting the  
6 children in harm's way.

7 I mean, one of the issues here has been sort of what  
8 happens when you have parents bringing their children in there,  
9 and it would certainly be my hope that the Government would  
10 understand that there is no value in trying to have the  
11 children suffer more than they probably have through all of  
12 this. I find some of the rhetoric about that troubling because  
13 of how difficult it may make for these children going forward,  
14 but the defendant ultimately is the one who put the children in  
15 harm's way and so that is a piece of this.

16 I take your point that they're arguing it from both  
17 sides, but from my point of view, it does make some difference  
18 that the defendant in the pursuit of what was ostensibly for  
19 their children's interest put their child in a position where  
20 they could worry that the Government is going to be prosecuting  
21 them for a felony.

22 MR. STERNBERG: Your Honor, let me address that  
23 concern. It's obviously an important point.

24 First of all, Your Honor knows from the presentence  
25 report about Mr. Huneeus's daughter, steps she has taken to

SEALED SIDEBAR REMOVED

1 start over.

2 THE COURT: And let me say in this regard, from  
3 everything I can see from the presentence report, this is a  
4 young woman who did not need Mr. Singer's devices. And I hope  
5 she's able to pick up from all of this and move forward, and I  
6 hope that the statements about all of these efforts that the  
7 Government is suggesting that her father did don't come back to  
8 harm her where, from what can be seen here, she, left to her  
9 own devices without Mr. Singer's, quote, assistance, would have  
10 fared well for herself and hopefully will fare well for  
11 herself. So I think that is pretty plain here. That doesn't  
12 help his actions here, and my sentencing here of what he's done  
13 here.

14 MR. STERNBERG: Right. I was referring to her new  
15 and, I hope, continued good path as a background for this  
16 situation where Mr. Huneeus enters a relationship with  
17 Mr. Singer for good reasons, good purposes, legitimate  
18 purposes, necessarily then involved his daughter at that point.  
19 So she is talking about colleges with him, she's having essays  
20 edited by him, she's using his legitimate SAT tutors. So she  
21 knows him. She has a relationship with him. He calls her on  
22 her cell phone. As the relationship unfortunately crossed the  
23 line, she was already involved with him. There's no defense to  
24 the crime. Mr. Huneeus has obviously pled guilty to it. But  
25 his daughter had a relationship with Mr. Singer and so covering

SEALED SIDEBAR REMOVED

1 up from her what was already going on was much more  
2 complicated.

3 THE COURT: No, but perhaps -- perhaps stopping it.  
4 At the moment when Mr. Singer is spilling the beans to engage  
5 the daughter now in this -- I mean, remember, this is man who's  
6 ultimately wearing a wire, who's ultimately cooperating. A  
7 parent engaging in a wrongful action with a criminal doesn't  
8 want to be putting his child there.

9 MR. STERNBERG: There's no argument against that, that  
10 putting his child in harm's way is one of the worst things  
11 about this whole case for him. And there's nothing defensible  
12 that can be said about it, understanding that the relationship  
13 started in a normal positive way. It transformed itself into  
14 an unfortunately criminal way. Singer is the one who disclosed  
15 that to her originally and, yes, of course, lines were crossed.  
16 Should it have been stopped? No question about it. But it  
17 wasn't as simple as a parent decides to disclose something to a  
18 child. Something had been disclosed to a child by Singer.  
19 Should he have stopped it? Absolutely. But at that point they  
20 were down the path on something that unfortunately they  
21 continued on.

22 And with respect to Your Honor's question about both  
23 schemes, yes, in front of you Mr. Huneeus is the only parent  
24 charged in both schemes. There are a number of others in Judge  
25 Gorton's session, as I think the Court knows. As we talked

SEALED SIDEBAR REMOVED

1 about in the brief, yes, there are two different components to  
2 it, but as the tapes with Singer make more clear, over time it  
3 became part of a single effort to get a single admission slot.

4 There are two pieces to it, of course, but what was  
5 driving the scheme here was to get a single admission slot at  
6 USC, and that gets to the other point about why the  
7 Government's matrix really doesn't work in this case. We  
8 obviously disagree with the Government. The conditional  
9 acceptance that his daughter got in November of 2018 was just  
10 that, it was conditional. It was not a final. Final  
11 admissions decisions are made in March or April. She did not  
12 get one of those spots and never will.

13 THE COURT: Yeah, but that's only because the scheme  
14 blew up.

15 MR. STERNBERG: Well, exactly. There's an external  
16 circumstance that came up, but that's actually not very much  
17 different from the Stanford sailing coach who was sentenced by  
18 Judge Zobel, John Vandemoer. He made efforts to actually  
19 secure two or three slots for students at Stanford, and because  
20 of also external circumstances, the student decided to go  
21 somewhere else, the student decided to apply early somewhere  
22 else, things out of his control, Judge Zobel found that his  
23 sentence should be a day in prison because none of those  
24 students actually went to Stanford.

25 THE COURT: Well, and there was no evidence that the

SEALED SIDEBAR REMOVED

1 coach actually pocketed any money in that case.

2 MR. STERNBERG: Right, that's a distinguishing  
3 feature.

4 THE COURT: Well, but it's not just the one point. I  
5 don't think anything I've done here is inconsistent with what  
6 Judge Zobel has done there. I think the question that no one  
7 got a spot is a little bit more a cogent question when you're  
8 talking about what steps the coaches did and what they were  
9 buying and selling, and in that case it was neither money  
10 personally in the hands of the coach nor a spot personally  
11 taken away from someone else. So it's a bit of a different  
12 piece here.

13 I think here, when we're looking at what the parents  
14 were doing, not what the coaches were doing, when we're looking  
15 at what the parents were doing, you know, it is never -- I  
16 mean, I have used the term you've got a spot that could have  
17 gone to someone else, but I think we all know that there's, you  
18 know, a certain number of spots that get offered and then some  
19 students accept and some don't and you've got your yield and  
20 your percentage, but the point is that you have taken the  
21 opportunity for -- you have made the effort to take the  
22 opportunity to get that offer letter. So here it was a  
23 conditional offer who didn't get the final. But from the point  
24 of view of what this defendant did and what I'm sort of looking  
25 at the nature of his crime, I guess I don't see it as very

SEALED SIDEBAR REMOVED

1 different from had the spot been offered. I mean, frankly, it  
2 probably has helped his daughter, that she was able to go and  
3 apply somewhere else and get in on her own somewhere else and  
4 be able to move on and is in a better position because of it.  
5 But I'm not sure it makes his crime any different as to what he  
6 was trying to accomplish.

7 MR. STERNBERG: Not in terms of what he was trying to  
8 accomplish. He was trying to accomplish the same thing as  
9 Devin Sloane or Stephen Semprevivo or some of the other  
10 defendants in front of Your Honor and in other courtrooms, but  
11 there is a difference in terms of what he accomplished or  
12 didn't accomplish. And yes, it was an external circumstance,  
13 but it's a -- it was also an external circumstance that  
14 prevented the Stanford -- Stanford from admitting two or three  
15 students as a result of what Mr. Vandemoer did.

16 And when USC sent out its, whatever it was, 3,000  
17 admit letters in April of this year, his daughter wasn't among  
18 them. There was a student among those who got one of those  
19 letters and his daughter didn't. And is it the result of  
20 timing and serendipity, yes, but the central feature of this  
21 case from the Government's perspective, as they've said in  
22 their briefs, as they said at the news conference the day the  
23 case was announced, this is a zero-sum game, and the core ill  
24 at the core of this case is taking a slot from someone else,  
25 and that didn't happen here. His daughter never enrolled,

SEALED SIDEBAR REMOVED

1 never was admitted to USC, and that is a distinguishing feature  
2 from some of the other defendants that this Court sentenced  
3 last week.

4 So, yes, is there a serendipity to it? Absolutely.  
5 But there's a serendipity to why those students didn't end up  
6 going to Stanford as well. The goal is the same, to take a  
7 spot, but the actual facts on the ground are not that she took  
8 a spot, and that's -- that is a difference here.

9 There's also -- the Government talks about being a  
10 repeat player, and I also go to the Vandemoer case on that  
11 point. Here the goal was to take one spot; ultimately it  
12 wasn't taken, fortunately, but the goal was to take one spot.  
13 In the matter of the Stanford sailing coach, it was two or  
14 three students that could have been impacted. So when you're  
15 talking about repeat players, it's a larger impact for the  
16 core -- what's at the core of this case, which is taking slots,  
17 to do it two or three times for two or three spots as opposed  
18 to just the one.

19 At the close of the Government's argument, also talked  
20 a little bit about money, and the Court's comments I think at  
21 the Semprevivo hearing that there was no light between the  
22 \$250,000 that Devin Sloane paid and the \$400,000 that Stephen  
23 Semprevivo paid are kind of even amplified here. Mr. Huneeus  
24 paid \$100,000. He had agreed to pay another 200 that never got  
25 paid, but he paid \$50,000 to Singer's foundation, another

SEALED SIDEBAR REMOVED

1       \$50,000 to USC. The remaining \$200,000 was supposed to be paid  
2 upon final admission to USC. That never happened. That money  
3 was never paid.

4                   The Government's point about the tax deduction, the  
5 tax issue with the IRS is really a calumny here. The  
6 Government knows, and this is clear from the tapes, he never  
7 intended to take a tax deduction, he never did take a tax  
8 deduction, and his plea agreement does not include an IRS  
9 cooperation clause, unlike many of the parents who do have tax  
10 violations. So there is no tax issue here.

11                  And as to the point that Mr. O'Connell quoted about  
12 his conversation with Mr. Singer, the tapes also revealed that  
13 the very next day Mr. Huneeus called Mr. Singer and apologized  
14 for being flippant. So that's, again, the full context of some  
15 of these tapes.

16                  So what about Mr. Huneeus as a person? We haven't  
17 talked about him yet today, really. The Government portrayal  
18 of him, as I said, stems from these series of tape clips, but  
19 there's much more to the man both before he met Mr. Singer and  
20 through today. He has led a life reflecting the values that  
21 his Chilean immigrant parents instilled in him: Hard, honest  
22 work, respect for others, fairness, compassion, love for  
23 family, and devotion to his community, both in Chile and here.

24                  You have before you letters from a number of people in  
25 support of Mr. Huneeus, and I just want to highlight a few of

SEALED SIDEBAR REMOVED

1 the themes. You have got letters from business leaders in Napa  
2 Valley who attest to his integrity and honesty in business, and  
3 you also have letters from farm workers who talk about how he  
4 has trained them, mentored them, promoted them. There's one  
5 particularly poignant letter from someone who is now the event  
6 planner at his former vineyard.

7 You have a number of letters from people who describe  
8 during the tragic floods and fires in Napa Valley in 2017 how  
9 Mr. Huneeus joined them in the fields, sleeves rolled up,  
10 shovel in hand to make sure that they were safe, to make sure  
11 they had safe places to live, that they were in good health,  
12 and that's the kind of person he is. He is a person who cares  
13 deeply about others, has spent his life helping people he knows  
14 and people he doesn't know. That's why this crime is such an  
15 aberration for him. As the court knows from the letters and  
16 the briefs, he has led a quite exemplary life.

17 One vignette about that, one of his former employees  
18 in Chile wrote an article -- wrote a letter to the Court,  
19 rather, about a union negotiation there, and how the most  
20 important thing to Mr. Huneeus was not the economics of the  
21 situation. It was the health, safety, and welfare of the  
22 people who were working there. And the quote in the letter is  
23 that "The humanitarian aspect always prevailed over the  
24 economic side." That's what Agustin's life has been marked by,  
25 treating others fairly and with respect and helping people.

SEALED SIDEBAR REMOVED

1                   Mr. Huneeus is beloved by his family, both here and in  
2 Chile. He is the proud father of four daughters, loving  
3 husband of his wife, Maca, for nearly 25 years. And his eldest  
4 daughter is graduating college this spring, and since there's  
5 been some reference to other children, I think it's important  
6 to note that her college admission to one of the most selective  
7 schools in the country had nothing to do with Rick Singer,  
8 predated any relationship with him, was a completely normal  
9 application and admission process.

10                  There is no good reason for Mr. Huneeus's decision to  
11 involve Rick Singer, particularly the fraudulent Rick Singer,  
12 with his second daughter. And he will wrestle with that for  
13 the rest of his life. As he wrote to the Court, I realize now  
14 that cheating on her behalf was not about helping her. He said  
15 to the Court, it was about him, his ego.

16                  To state the obvious, this case has been a blow to  
17 him. It's been a blow to his relationship with his family, his  
18 friends, his former colleagues, his avocation. But to his  
19 great credit, Mr. Huneeus has not wallowed. He has spent the  
20 last nearly six or eight months trying to use this terrible  
21 situation as a springboard, as an awakening in his personal  
22 life, his family life, his community life.

23                  And as you know from the briefs and the letters in  
24 support, for the last many months he's been working with poor  
25 and homeless people in San Francisco on the ground, cooking

SEALED SIDEBAR REMOVED

1 meals, serving meals. And on the education front, which I know  
2 that the Court has referenced at other sentencing, he has been  
3 actively involved in created internship opportunities for the  
4 children of people who work in Napa Valley on the farms,  
5 through the Napa Valley Farm Workers Association, an  
6 organization that is very dear to him, and to expose those high  
7 school students to professional opportunities outside of the  
8 farm. That's who Agustin Huneeus is, helping others, lifting  
9 other people up, people close to him and people he doesn't  
10 know.

11 On the subject of the wine business, Mr. Huneeus is  
12 suffering, and will suffer for many years to come, as a result  
13 of this case an inability to hold an alcoholic beverage  
14 license, and therefore will not be able to work in the business  
15 that he has loved for the last nearly 30 years. That is a  
16 unique collateral consequence that is visited upon him that is  
17 distinct from many of the parents who either own their own  
18 businesses or don't work in licensed industries.

19 Now, one last point about Mr. Huneeus. The Government  
20 breathed a lot of fire about him in its argument. Some of it's  
21 taken out of context, as I mentioned, from the little bits of  
22 tape, some of it not accurate, but not one word was spoken  
23 about him since his plea in this case. At the sentencing  
24 arguments from Mr. Sloane and Mr. Semprevivo, the Government  
25 urged the Court to impose harsher sentences on them because, in

SEALED SIDEBAR REMOVED

1 the Government's view, they had not taken responsibility, they  
2 had hired outside experts, criminologists, psychologists to  
3 contextualize their conduct. Mr. Semprevivo had sued a school.

4 Mr. Huneeus has been a model of probity since his  
5 guilty plea. There is no equivocation about his acceptance of  
6 responsibility. He has been acting as a model member of the  
7 community. He didn't hire any experts to try to contextualize  
8 what he did. Instead, in an unvarnished way, he has taken  
9 responsibility for it and written to the Court in an  
10 unvarnished way about what he did and how he feels about it.

11 While difficult at times, he has moved forward --  
12 attempted to move forward with grace and clarity in this case.  
13 And that gets to our sentencing recommendation. For starters,  
14 Mr. Huneeus is the first defendant in a sentencing brief to  
15 recommend a period of incarceration, and we've recommended a  
16 sentence that we believe is fair and appropriate, consistent  
17 with the guidelines, consistent with the 3553(a) factors, and  
18 not some opening bid of thousands of hours of community service  
19 and probation. It's also a sentence that's consistent with the  
20 fact that we've been listening to what's been going on in this  
21 courtroom for the last several weeks.

22 As the Court observed, it's the fact of, not  
23 necessarily the length of incarceration, that matters in some  
24 cases, including, I submit, in this case. So what about the  
25 length? The length that we recommend is longer than the

SEALED SIDEBAR REMOVED

1 sentence that the Court imposed on Ms. Huffman and Mr. Caplan,  
2 and that's because it respects the fact that Mr. Huneeus also  
3 participated in the admission end of the scheme and not just  
4 the testing as they did.

5 However, the sentence recommendation is lower and  
6 shorter than the sentence the Court imposed on Mr. Semprevivo  
7 and Mr. Sloane for two reasons. First, both of those  
8 defendants did secure a slot for their children, and in  
9 Mr. Huneeus's case, he ultimately did not. And the other  
10 factor is both of those defendants in the Government's eyes  
11 were not models of probity after their plea and Mr. Huneeus has  
12 been.

13 The Government's recommendation, as the Court began to  
14 engage with Mr. O'Connell at the end, is really out of  
15 proportion with what's been happening in this Court over the  
16 last several weeks, and is really also out of proportion with  
17 its core prosecution theme. In the end, relative sentences and  
18 disparities are an important feature of 3553(a), and it is an  
19 inescapable feature of this case that when USC sent out its  
20 admission letters in late March or early April of this year,  
21 there was no spot taken by Mr. Huneeus's daughter, and  
22 therefore, his sentence should reflect that.

23 So for all those reasons, Your Honor, we respectfully  
24 recommend a sentence of two months of incarceration, \$95,000  
25 fine, one year of supervised release with a special condition

SEALSED SIDEBAR REMOVED

1 of 350 hours of community service, of course the \$100 special  
2 assessment. Thank you.

3 THE COURT: Thank you.

4 Mr. Huneeus, do you wish to address the Court?

5 THE DEFENDANT: Yes, ma'am.

6 Today is a hard day, a super hard day, but after you  
7 sentence me, the rest of my life begins. I want more than  
8 anything to pay for my crime and atone for the harm that I've  
9 done, caused. The consequences of my actions to those closest  
10 to me have been devastating. The public shame and notoriety I  
11 have thrust upon them has impacted them all. I have damaged  
12 and humiliated my family. My friends and the amazing people I  
13 had the privilege to work with in our business are all victims  
14 of my actions. I have harmed and disappointed absolutely  
15 everybody who loved me and cared about me. I am sorry, and I  
16 will do better.

17 Every spot in every college is important in our  
18 society. Nothing has a larger impact on income and equality  
19 and social mobility than a college education. Millions of kids  
20 apply to college every year, and the top colleges can accept  
21 just a tiny percentage of them. And so many of these spots are  
22 reserved for donors, athletes, legacies that the odds are even  
23 tougher for most.

24 I am deeply ashamed of myself for taking a part in a  
25 scheme that could have taken a deserving student's future away.

SEALED SIDEBAR REMOVED

1 My actions threatened to disadvantage the very people that the  
2 system was already stacked against.

3 I deserve the consequences of my actions and whatever  
4 sentence you decide today. I will use my time to figure out  
5 how to come back and have an impact for good to those that I  
6 have harmed. I will commit to you today and all my friends and  
7 family that have stood by me that I will get out and work to  
8 redeem myself in the eyes of society. Only when I achieve this  
9 will I regain my self-worth and be worthy of the respect of my  
10 friends and family again.

11 Thank you very much.

12 THE COURT: Thank you.

13 I'm again starting out by considering, as I must, the  
14 3553(a) factors and those factors through the lens of the  
15 policies that sentencing is intended to serve. I carefully  
16 read 18 U.S.C. 3553(a)'s provision that I impose a sentence  
17 sufficient but not greater than necessary to comply with the  
18 purposes of sentencing. And I've tried to do that in these  
19 cases. There is a -- there is a theme perhaps that's going  
20 through each of these sentencing that's in front of me where  
21 the Government tries to describe the man or woman who I'm  
22 sentencing in the starkest terms of greed or selfishness or  
23 demands, and defense counsel have tried to present the other  
24 things about their clients that define them other than the  
25 crime that they committed.

SEALED SIDEBAR REMOVED

1                   And I made the comment before, after reading one of  
2 the briefs in front of me, where counsel said that there are  
3 two types of people convicted of crimes. They are -- that  
4 there are good people who make mistakes and bad people who get  
5 caught, and I said then that that's not the way I view  
6 sentencing, that I view sentencing that I am sentencing a  
7 person who committed a crime. And I think what all of  
8 the -- what each of these cases has shown is before me, and  
9 this one as well, is that these defendants committed a crime.  
10 That's why we're here. And that felony that they committed had  
11 various aspects, which I will go through, and I do go through  
12 and I evaluate it.

13                   But in each case -- there is a person here before me  
14 in this case, just as there is in every case that I have, and  
15 the Government has not succeeded in any of these cases in  
16 convincing me that I should sentence someone for their  
17 brashness or selfishness or personal feelings. In each case I  
18 have tried to sentence them for the crime, and at the same time  
19 in each of these cases the defendants have shown me the  
20 defendant's exemplary lives and various positive things the  
21 defendants have done, and that is my starting place. I don't  
22 start from the premise that these are not decent human beings  
23 in front of me or that any other criminal defendant in front of  
24 me doesn't start from a place of being fundamentally decent  
25 people.

SEALED SIDEBAR REMOVED

1           I do look at the background of where people are, what  
2 they've done, how they've accomplished their lives in trying to  
3 think about how much I need the prison sentence to specifically  
4 deter the particular defendant in front of me or to protect  
5 society from the defendant in front of me, and in each of these  
6 cases, and here as well, I do not see a need for specific  
7 deterrence or to protect society from further acts of this  
8 defendant. But each time I come back to the question in this  
9 series of cases of general deterrence, and the fact that there  
10 is this crime that was undertaken where there was already so  
11 many -- so many things in these defendants working in their  
12 favor and yet they took these steps, and the notion that we  
13 shouldn't need to have a Government wire and a Government  
14 investigation to try to have people not behave in this way, and  
15 so I've tried to do that here as well as before.

16           I don't find the fact that the defendant's daughter  
17 ultimately didn't get into USC to be a game changer here. I do  
18 see this as a crime where the defendant engaged in both the  
19 exam fraud and the attempt to buy a spot at the school. And I  
20 have some concern of just the greater level of disregard of the  
21 child's interest here in letting the scheme proceed once she  
22 was aware of the misconduct. So I am taking those factors  
23 here.

24           I do note this was not a case where the exam, the test  
25 was taken for the child, but the child did go in and take it

SEALED SIDEBAR REMOVED

1 herself. There was not an effort to get a tax deduction.

2 There was repeat conduct in the sense that both of the schemes  
3 were engaged in.

4 So considering all of these things and trying to  
5 ensure that the sentencing is within the same -- using the same  
6 metrics that I have been using, I do have the sentence I intend  
7 to impose here. I guess the one last comment, just from my  
8 notes, is having gone -- counsel went through some of the other  
9 test-taking schemes where individuals have been sentenced to  
10 time served or a day and didn't get any time on those, and I  
11 did -- I would note that, at least the ones I'm familiar  
12 with -- I didn't go through every one in your brief, but the  
13 ones I'm familiar with involved foreign nationals. In many  
14 cases they also agreed as part of the sentence to an order of  
15 deportation, and it was on an agreed plea with the Government  
16 joining on a time-served sentence. So I don't think those are  
17 particularly helpful markers.

18 There were also other bribery cases, and I think  
19 counsel noted that something in the order of 75 percent off the  
20 guideline sentence was imposed in a number of them, even for  
21 defendants who went to trial, but even for defendants who went  
22 to trial suggests that perhaps the court may not have found  
23 that going to trial was a reason to have a higher sentence. I  
24 don't know what happened in those cases.

25 But I would note that the sentences here have been

SEALED SIDEBAR REMOVED

1 coming in at substantially lower than what the plea agreement  
2 envisioned as the guideline sentence for these cases. At any  
3 rate, that is -- the sentence I will impose will include  
4 community service as the rehabilitative piece, a fine greater  
5 than the guidelines provide for for the reasons that I do see  
6 the amount that the money -- that people would agree to pay as  
7 some indicator of what kind of a fine might or might not be  
8 meaningful.

9 So in sum, I will impose a sentence sufficient, not  
10 greater than necessary of five months imprisonment, a fine of  
11 \$100,000, supervised release for a period of two years with 500  
12 hours of community service, direct service -- through an agency  
13 providing direct service to students or families, and the \$100  
14 special assessment, the conditions of supervision that were  
15 listed in the presentence report.

16 Any objection -- and no restitution. Any objection  
17 before I formally impose sentence?

18 MR. O'CONNELL: No, Your Honor.

19 MR. STERNBERG: No, Your Honor.

20 THE COURT: Mr. Huneeus, will you please stand.

21 Pursuant to the Sentencing Reform Act of 1984 and  
22 having considered the sentencing factors enumerated at 18  
23 U.S.C. Section 3553(a), it is the judgment of the Court that  
24 the defendant Agustin Francisco Huneeus is hereby sentenced  
25 to -- is hereby committed to the custody of the Bureau of

SEALED SIDEBAR REMOVED

1 Prisons to be in prison for a term of five months. Upon  
2 release from imprisonment, the defendant shall be placed on  
3 supervised release for a term of two years. Within 72 hours of  
4 release from custody of the Bureau of Prisons, the defendant  
5 shall report in person to the district to which he is released.

6 It is further ordered that the defendant shall pay to  
7 the United States a fine of \$100,000, and that fine shall be  
8 paid on a schedule set forth in the judgment. While under the  
9 Probation Office's supervision, the defendant shall comply with  
10 the following terms and conditions:

11 Mandatory conditions: You must not commit another  
12 Federal, State or local crime. You must not unlawfully possess  
13 a controlled substance. Drug testing conditions are suspended  
14 based on the Court's determination that you pose a low risk of  
15 substance abuse. You must cooperate in the collection of DNA  
16 as directed by the probation officer. You must make -- pay --  
17 sorry, no restitution. You must pay the assessment imposed in  
18 accordance with 18 U.S.C. Section 3013, and you must pay the  
19 fine in accordance with a schedule of payments sheet of the  
20 judgment. You must notify the Court of any material change in  
21 your economic circumstances that might affect your ability to  
22 pay fines or special assessments until the time that they are  
23 paid. You must comply with the standard conditions that have  
24 been adopted by the Court which are described at Sentencing  
25 Guideline Section 5D1.3(c).

SEALED SIDEBAR REMOVED

1                   Additional special conditions: You are prohibited  
2 from incurring new credit charges or opening additional lines  
3 of credit without the approval of the Probation Office while  
4 any financial obligations remain outstanding. You shall  
5 provide the Probation Office access to any financial  
6 information which may be shared with the financial litigation  
7 unit of the U.S. Attorney's Office while any financial  
8 obligations remain outstanding. I dont know if I said the \$100  
9 special assessment.

10                  The sentence is imposed for all the reasons previously  
11 stated and because the Court believes the sentence and all its  
12 components is reasonable and is a sentence that is sufficient  
13 but not greater than necessary to accomplish the goals of  
14 sentencing consistent with 18 U.S.C. Section 3553 and the  
15 Supreme Court's guidance.

16                  Appellate rights: The plea agreement you have entered  
17 into with the Government limits your rights of appeal, and  
18 under the terms of your plea agreement, you've waived your  
19 right to challenge your conviction or your sentence -- and your  
20 sentence on both direct appeal and at a future proceeding. You  
21 may still appeal on the grounds of ineffective assistance of  
22 counsel or that the prosecutor engaged in misconduct. Sentence  
23 is imposed as stated. So you may be seated.

24                  There's no objection presumably to self-reporting?

25                  MR. O'CONNELL: No, Your Honor.

SEALED SIDEBAR REMOVED

1                   U.S. PROBATION: And, Your Honor, I believe you also  
2 indicated that he was to complete five [sic] hours of community  
3 service.

4                   THE COURT: Thank you. Thank you.

5                   The sentence includes a term of 500 hours of community  
6 service at an agency approved by the Probation Office providing  
7 direct service to students or families.

8                   No objection to self-reporting?

9                   MR. O'CONNELL: No, Your Honor.

10                  THE COURT: And a date for self-reporting?

11                  U.S. PROBATION: Six weeks, Your Honor, would be  
12 November 15th, unless there's a different request.

13                  MR. STERNBERG: If there's any way to move that up a  
14 week or two, that would be requested.

15                  THE COURT: What's the earliest they can -- you mean  
16 making it earlier?

17                  MR. STERNBERG: Make it earlier.

18                  U.S. PROBATION: The Bureau of Prisons requests four  
19 to six weeks. So if he wanted to move it up to four weeks, it  
20 could be November 1st.

21                  MR. STERNBERG: Yes. Thank you.

22                  THE COURT: So we'll have you self-reporting November  
23 1st. Is there any request for -- as to recommendation for a  
24 location?

25                  MR. STERNBERG: Yes, Your Honor. Generally a

SEALED SIDEBAR REMOVED

1 recommendation for the Northern District of California and  
2 specifically for the Atwater facility. And, Your Honor, I'm  
3 told that November 4th is a Monday. Is there any way we could  
4 have the report date be a Monday, November 4th?

5 U.S. PROBATION: I don't see any reason why not.

6 THE COURT: That's fine. November 4th.

7 MR. STERNBERG: Thank you.

8 THE COURT: I can make a request for a facility  
9 commensurate with his security level in the Northern District  
10 of California. You gave a specific facility. The Bureau of  
11 Prisons doesn't appreciate my making a facility request. If  
12 you want to give me a more narrow location, I can do that.

13 MR. STERNBERG: A minimum security facility within 200  
14 miles of San Francisco.

15 THE COURT: Okay. I will include that.

16 MR. STERNBERG: Thank you, Your Honor.

17 THE COURT: I find by clear and convincing evidence  
18 that Mr. Huneeus is not likely to flee or pose a danger to the  
19 safety of any person or the community if released, and the  
20 release requires you to self-report on November 4th at the  
21 facility that will be designated.

22 Failure to surrender for service of a sentence shall  
23 result in punishment of a fine or imprisonment of not more than  
24 ten years. And any such term of imprisonment would be  
25 consecutive to the sentence of imprisonment here. And any

SEALED SIDEBAR REMOVED

1 conviction of an offense while on release shall be sentenced,  
2 in addition to the sentence prescribed here, to a term of  
3 imprisonment of not more than ten years if the offense is a  
4 felony or a term of imprisonment not more than one year if the  
5 offense is a misdemeanor.

6 So with that, Mr. Huneeus, you are directed to  
7 self-report to the BOP facility in -- on November 4th, and I  
8 wish you luck, sir.

9 THE CLERK: Court is in recess. All rise.

10 (Adjourned, 3:49 p.m.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

SEALED SIDEBAR REMOVED

1 CERTIFICATE OF OFFICIAL REPORTER  
23 I, Linda Walsh, Registered Professional Reporter  
4 and Certified Realtime Reporter, in and for the United States  
5 District Court for the District of Massachusetts, do hereby  
6 certify that the foregoing transcript is a true and correct  
7 transcript of the stenographically reported proceedings held in  
8 the above-entitled matter to the best of my skill and ability.9 Dated this 7th day of October, 2019.10  
11  
12 /s/ Linda Walsh  
13 Linda Walsh, RPR, CRR  
14 Official Court Reporter  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25